

JC10 Rec'd PCT/PTO 05 MAY 2005

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Docket No.: 0690-0122PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Reiner KOBER et al.

Application No.: 10/525,008

Confirmation No.: 1751

Filed: February 17, 2005

Art Unit: 1616

For: AGENTS CONTAINING CARBOXYLIC
ACID AND THE USE OF THE SAME IN
PLANT CULTIVATION

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on February 17, 2005, attached hereto is an English translation of the International Preliminary Examination Report (Form PCT/IPEA/409) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No.

Application No.: 10/525,008

Docket No.: 0690-0122PUS1

02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: MAY - 5 2005

Respectfully submitted,

By Scott L. Lowe

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Attachment(s)

Translation

PATENT COOPERATION TREATY

PCT/EP2003/008837



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference M/43171-PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/008837	International filing date (day/month/year) 08 August 2003 (08.08.2003)	Priority date (day/month/year) 19 August 2002 (19.08.2002)
International Patent Classification (IPC) or national classification and IPC A01N 43/653, 43/76, 43/40, 33/12, A01N 43/653, 43/76, 43/40, 33/12		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 05 March 2004 (05.03.2004)	Date of completion of this report 16 April 2004 (16.04.2004)
Name and mailing address of the IPEA/EP Facsimile No.	Authorized officer Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/008837

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-35, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1-26, filed with the letter of 04 March 2004 (04.03.2004)
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP 03/08837

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments):*

Continuation of: I.6

The documents cited in this international preliminary examination report are numbered in the order in which they appear in the international search report.

The amendments submitted with the letter of 4 March 2004 do not introduce substantive matter which goes beyond the disclosure in the international application as filed, and are therefore allowable under PCT Article 34(2)(b).

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/08837

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-26	YES
	Claims		NO
Inventive step (IS)	Claims	1-26	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-26	YES
	Claims		NO

2. Citations and explanations

The present invention relates to an aqueous mixture of triazoles and carboxylic acid for regulating root growth. The examples show that the carboxylic acid influences the regulation of germination by means of triazoles as well as the stability in storage of the aqueous formulation.

D3 and D4 are considered to be the closest prior art. Both documents, however, concern the combating of fungi using triazoles. Furthermore, both documents disclose non-aqueous agents, except for the dilution with water in D3, but then the ratios of the constituents are no longer comparable.

The achievement of the above-mentioned advantages, in particular the synergistic growth regulation, using agents as per the claims is not derivable from the cited prior art, because such a possibility was not mentioned at all.

The present application meets the criteria in PCT Article 33(2) to (4), because the subject matter of claims 1-26 is novel, having regard to the prior art as defined in the Regulations (PCT Rule 64.1 - 64.3), involves an inventive step (PCT Rule 65.1 to 65.2) and is industrially applicable.